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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of themselves and
all others similarly situated,

Plaintiff,

vs.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**JOINT SUBMISSION RE: SEALING
PORTIONS OF THE MARCH 20, 2023
ORDER ON (1) PLAINTIFFS' MOTION
FOR ADDITIONAL DISCOVERY
SANCTIONS, AND GOOGLE'S
ADMINISTRATIVE MOTION FOR
LEAVE TO DEPRECATE, AND (2)
PRESERVATION OF CERTAIN
MAPPING AND LINKING TABLES
(DKTS. 898, 899)**

Judge: Hon. Susan van Keulen

1 March 29, 2023

2 Submitted via ECF

3 Magistrate Judge Susan van Keulen
4 San Jose Courthouse
5 Courtroom 6 - 4th Floor
6 280 South 1st Street
7 San Jose, CA 95113

8 Re: *Brown v. Google LLC*, Case No. 4:20-cv-03664-LHK-SVK (N.D. Cal.)
9 Joint Submission re: Sealing Portions of the March 20, 2023 Order on (1)
10 Plaintiffs' Motion for Additional Discovery Sanctions, and Google's
11 Administrative Motion for Leave to Deprecate, and (2) Preservation of Certain
12 Mapping and Linking Tables

13 Dear Magistrate Judge van Keulen:

14 Pursuant to Your Honor's March 20, 2023 Redaction Order (Dkt. 903), Plaintiffs and
15 Google LLC ("Google") hereby submit this joint filing regarding Google's proposed redactions to
16 the Court's March 20, 2023 sealed Orders on (1) Plaintiffs' Motion for Additional Discovery
17 Sanctions, and Google's Administrative Motion for Leave to Deprecate, and (2) Preservation of
18 Certain Mapping and Linking Tables (Dkts. 898, 899).
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I. INTRODUCTION

As ordered by the Court on March 20, 2023 (*see* Dkt. No. 903), Google and Plaintiffs respectfully submit this filing regarding Google's proposed redactions to the Court's March 20, 2023 Sealed Orders on (1) Plaintiffs' Motion for Additional Discovery Sanctions and Google's Administrative Motion for Leave to Deprecate, and (2) Preservation of Certain Mapping and Linking Tables (Dkts. 898, 899) ("Order"). Google contends that the material proposed for redaction contains Google's confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations that Google does not share publicly, including various types of Google's internal projects and project code names, data sources, and their proprietary functionalities, as well as internal metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Google contends this information is highly confidential and should be protected.

This Joint Submission pertains to the following information contained in the Order:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality
March 20, 2023 Order on: (1) Plaintiffs' Motion for Additional Discovery Sanctions, and (2) Google's Administrative Motion for Leave to Deprecate (Dkt. 898)	Highlighted portions at: Pages 2:11, 3:9, 3:12, 4:4, 4:15, 5:6, 5:10, 5:12-13, 5:15, 5:18, 5:21, 5:23-24, 6:24, 6:28, 7:2-3, 7:10, 7:13, 7:20, 8:1, 8:6-7, 8:22, 8:25, 9:2, 11:20, 12:27, 13:1, 14:1, 16:7-15, 16:17, 16:19-20, 17:1, 17:4, 17:9, 17:11, 17:13, 17:17, 17:20, 18:11-12	Google
March 20, 2023 Order on: Preservation of Certain Mapping and Linking Tables (Dkt. 899)	Highlighted portions at: Pages 1:6, 2:1-4, 2:6, 3:8, 3:10, 3:16, 3:18, 3:20-21, 3:25, 4:3, 4:8, 4:12, 4:17, 4:19-20, 4:24-25, 5:1, 5:3, 5:14-16, 5:19, 5:21, 5:28, 6:3-6, 6:11-13, 6:15-16, 6:18-19, 6:21, 6:23-25, 6:27, 7:2, 7:4, 7:16, 7:19, 7:21, 7:24-25, 7:27-28, 8:1,	Google

	8:4-5, 8:8, 8:11-12, 8:14-16, 8:18, 8:23, 8:26, 9:1, 9:6, 9:25, 10:5-7, 10:17-19, 10:23-24, 13: 11, 13:13, 14:8, 14:11, 14:15	
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The parties conferred on the proposed redactions to the Order. Plaintiffs take no position on sealing the proposed redactions.

II. LEGAL STANDARD

The common law right of public access to judicial records in a civil case is not a constitutional right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue constitutes “competitively sensitive information,” such as “confidential research, development, or commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of information, including, but not limited to, trade secrets or other confidential research, development, or commercial information”).

III. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE” STANDARD AND SHOULD ALL BE SEALED

Courts have repeatedly found it appropriate to seal documents that contain “business information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589–99. Good cause to seal is shown when a party seeks to seal materials that “contain[] confidential information about the operation of [the party’s] products and that public disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a litigant’s competitive standing may be sealed even under the “compelling reasons” standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015)

1 (information “is appropriately sealable under the ‘compelling reasons’ standard where that
2 information could be used to the company’s competitive disadvantage”) (citation omitted).

3 Here, the Order comprises confidential and proprietary information regarding highly
4 sensitive features of Google’s internal systems and operations that Google does not share publicly.
5 Specifically, this information provides details related to various types of Google’s internal projects
6 and project code names, data sources, and their proprietary functionalities, as well as internal
7 metrics. Such information reveals Google’s internal strategies, system designs, and business
8 practices for operating and maintaining many of its important services while complying with legal
9 and privacy obligations.

10 Public disclosure of the above-listed information would harm Google’s competitive standing
11 it has earned through years of innovation and careful deliberation, by revealing sensitive aspects of
12 Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone
13 is a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No.
14 14-cv-02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal
15 certain sensitive business information related to Google’s processes and policies to ensure the
16 integrity and security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*,
17 No. 3:16-cv-02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales
18 data because “disclosure would harm their competitive standing by giving competitors insight they
19 do not have”); *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8,
20 2013) (granting motion to seal as to “internal research results that disclose statistical coding that is
21 not publically available”).

22 Moreover, if publicly disclosed, malicious actors may use such information to seek to
23 compromise Google’s internal systems and data structures. Google would be placed at an increased
24 risk of cyber security threats, and data related to its users could similarly be at risk. *See, e.g., In re*
25 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing “material
26 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”
27 because if made public, it “could lead to a breach in the security of the Gmail system”). The security
28 threat is an additional reason for this Court to seal the identified information.

The information Google seeks to redact is the minimal amount of information needed to protect its internal systems and operations from being exposed to not only its competitors but also to nefarious actors who may improperly seek access to and disrupt these systems and operations. The “good cause” rather than the “compelling reasons” standard should apply but under either standard, Google’s sealing request is warranted.

IV. CONCLUSION

For the foregoing reasons, Google respectfully requests that the Court seal the identified portions of the Order. Plaintiffs take no position on Google’s request.

DATED: March 29, 2023

Respectfully submitted,

/s/ Andrew H. Schapiro

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ATTESTATION OF CONCURRENCE

I am the ECF user whose ID and password are being used to file this Joint Submission.
Pursuant to Civil L.R. 5-1(h)(3), I hereby attest that each of the signatories identified above has
concurred in the filing of this document.

Dated: March 29, 2023

By /s/ Andrew H. Schapiro
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Counsel on behalf of Google LLC